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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/020,870	12/19/2001	Peter Cooper	1076.41017X00	8801
20457	7590	07/15/2005	EXAMINER	
ANTONELLI, TERRY, STOUT & KRAUS, LLP 1300 NORTH SEVENTEENTH STREET SUITE 1800 ARLINGTON, VA 22209-3873			MISLEH, JUSTIN P	
			ART UNIT	PAPER NUMBER
			2612	

DATE MAILED: 07/15/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

10/020,870

Applicant(s)

COOPER, PETER

Examiner

Justin P. Misleh

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 04 February 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 19 - 37 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 19 - 37 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 19 December 2001 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

### DETAILED ACTION

**Note to Applicant:** The Examiner of record for the present application has changed.

#### *Response to Arguments*

1. Applicant's arguments with respect to Claims 19, 26, and 36 have been considered but are moot in view of the new grounds of rejection. The Examiner acknowledges and accepts the substitute specification; hence, it will be entered.

#### *Claim Rejections - 35 USC § 101*

2. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

3. **Claim 34** is rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter. For independent Claim 34, a program causing a computer to execute a method that is not tangibly embodied on a computer readable medium is non-statutory subject matter.

#### *Claim Rejections - 35 USC § 102*

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this

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subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

5. **Claims 36 and 37** are rejected under 35 U.S.C. 102(e) as being anticipated by Parulski.
6. For **Claim 36**, Parulski discloses, in figures 32-37, , a method of operating a digital camera comprising a user interface of the camera with an image quality indicator (see col. 28, line 3 to col. 29, line 48) and a display for displaying an image together with the image quality indicator (see figures 33 – 37). Parulski discloses determining whether one the one or more algorithms have found a stable solution (Parulski offers revision suggestions to images that have received poor quality warnings, see col. 37, lines 41-51).
7. As for **Claim 37**, Parulski discloses executing one or more algorithms for determining the quality of the image (see col. 28, line 3 to col. 29, line 48).

### *Claim Rejections - 35 USC § 103*

8. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

9. **Claim 19 – 37** are rejected under 35 U.S.C. 103(a) as being unpatentable over Parulski in view of Sugimoto.
10. For **Claim 19**, Parulski discloses, in figures 32-37, a digital camera including an image quality indicator (see col. 28, line 3 to col. 29, line 48) and a display for displaying an image together with the image quality indicator (see figures 33 – 37).

Parulski discloses a single image quality parameter located inside the display screen and outside the image on being displayed on the display screen; Parulski does not disclose a plurality of image quality parameters located within the image.

On the other hand, Sugimoto also discloses a digital camera with an image quality indicator. More specifically, Sugimoto discloses, as shown in figures 1 and 5 and as stated in column 6 (lines 6 – 20), a digital camera (10) with an image quality indicator (see figure 5) wherein a plurality of image quality parameters located within the image (28, 82, and 84).

As stated in column 1 (lines 27 – 40), at the time the invention was made, it would have been obvious to one with ordinary skill in the art to have included a plurality of image quality parameters located within the image, as taught by Sugimoto, in the digital camera, disclosed by Parulski, for the advantage of providing an easily controllable camera in accordance with the diversified tastes of a user.

11. For **Claim 26**, Parulski discloses, in figures 32-37, , a method of operating a digital camera comprising a user interface of the camera with an image quality indicator (see col. 28, line 3 to col. 29, line 48) and a display for displaying an image together with the image quality indicator (see figures 33 – 37).

Parulski discloses a single image quality parameter located inside the display screen and outside the image on being displayed on the display screen; Parulski does not disclose a plurality of image quality parameters located within the image.

On the other hand, Sugimoto also discloses a digital camera with an image quality indicator. More specifically, Sugimoto discloses, as shown in figures 1 and 5 and as stated in

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column 6 (lines 6 – 20), a digital camera (10) with an image quality indicator (see figure 5) wherein a plurality of image quality parameters located within the image (28, 82, and 84).

As stated in column 1 (lines 27 – 40), at the time the invention was made, it would have been obvious to one with ordinary skill in the art to have included a plurality of image quality parameters located within the image, as taught by Sugimoto, in the digital camera, disclosed by Parulski, for the advantage of providing an easily controllable camera in accordance with the diversified tastes of a user.

12. As for **Claim 20**, Parulski discloses the image quality indicator indicates whether an image is optimal based on one or more image parameters (Parulski teaches providing quality warnings based on scene brightness, see col. 15, lines 5-61).

13. As for **Claims 21 and 30**, Parulski discloses one or more image parameters include light exposure (see col. 28, line 3 to col. 29, line 48).

14. As for **Claims 22 and 31**, Sugimoto discloses, as shown in figure 5, wherein the plurality of parameters includes a white balance (82).

15. As for **Claims 23 and 32**, Sugimoto discloses, as shown in figure 5, wherein the plurality of parameters includes a dark reference (BRIGHTNESS/SENSITIVITY).

16. As for **Claims 24 and 25**, Parulski teaches a camera capable of displaying an image quality warning; however, Parulski does not expressly disclose that the camera is housed in a mobile communications device.

Although, **Official Notice** (MPEP § 2144.03) is taken that both the concepts and advantages of incorporating digital cameras into other devices, such as mobile telephone handsets are well known and expected in the art. At the time the invention was made, it would

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have been obvious to one with ordinary skill in the art to have incorporated digital cameras into other devices, such as mobile telephone handsets for the advantage of transmitting images for printing or permanent storage.

17. As for **Claim 27**, Parulski discloses capturing an image (see col. 28, line 3 to col. 29, line 48).

18. As for **Claim 28**, Parulski discloses, in figures 32-37, a digital camera including an image quality indicator (see col. 28, line 3 to col. 29, line 48) and a display for displaying an image together with the image quality indicator (see figures 33 – 37).

19. As for **Claim 29**, Parulski discloses executing one or more algorithms for determining the quality of the image (see col. 28, line 3 to col. 29, line 48).

20. As for **Claim 33**, Parulski discloses determining whether one the one or more algorithms have found a stable solution (Parulski offers revision suggestions to images that have received poor quality warnings, see col. 37, lines 41-51).

21. As for **Claim 34** (also see 35 U.S.C. 101 rejection above), Parulski discloses, in figures 32-37, a method of operating a digital camera comprising providing a user interface of the camera with an image quality indicator (see col. 28, line 3 to col. 29, line 48).

22. As for **Claim 35**, Sugimoto discloses, as shown in figures 1 and 5 and as stated in column 6 (lines 6 – 20), a digital camera (10) with an image quality indicator (see figure 5) wherein a plurality of image quality parameters located within the image (28, 82, and 84).

*Conclusion*

23. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

24. Any inquiry concerning this communication or earlier communications from the Examiner should be directed to Justin P Misleh whose telephone number is 571.272.7313. The Examiner can normally be reached on Monday through Thursday from 7:30 AM to 5:00 PM and on alternating Fridays from 8:00 AM to 4:30 PM.

If attempts to reach the Examiner by telephone are unsuccessful, the Examiner's supervisor, Wendy R Garber can be reached on 571.272.7308. The fax phone number for the organization where this application or proceeding is assigned is 571.273.3000.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished



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applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

JPM

July 11, 2005

  
THY TRAN  
PRIMARY EXAMINER